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inks and oils coming into contact with the product.

[20 FR 674, Feb. 1, 1955, as amended at 22 FR 8168, Oct. 16, 1957; 28 FR 6346, June 20, 1963; 32 FR 8232, June 8, 1967; 35 FR 5664, Apr. 8, 1970; 40 FR 20056, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, as amended at 46 FR 39571, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 47 FR 46070, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982; 60 FR 12402, Mar. 7, 1995; 63 FR 13331, Mar. 19, 1998; 64 FR 56947, Oct. 22, 1999]

§ 56.77 Health and hygiene of personnel.

(a) No person known to be affected by a communicable or infectious disease shall be permitted to come in contact with the product.

(b) Plant personnel coming into contact with the product shall wear clean clothing.

[32 FR 8232, June 8, 1967. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

PART 57—INSPECTION OF EGGS (EGG PRODUCTS INSPECTION ACT)

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- 57.1000 Administrative proceedings.

AUTHORITY: 21 U.S.C. 1031–1056.

SOURCE: 63 FR 69968, Dec. 17, 1998, unless otherwise noted.

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2. Nomenclature changes to part 57 appear at 63 FR 69971, Dec. 17, 1998.

Subpart A—Regulations Governing the Inspection of Eggs

DEFINITIONS

§ 57.1 Meaning of words.

Under these regulations, words in the singular shall be deemed to mean the plural and vice versa, as the case may demand.

§ 57.5 Terms defined.

For the purpose of these regulations, unless the context otherwise requires, the following terms shall be construed, respectively, as follows:

Acceptable means suitable for the purpose intended and acceptable to the Administrator.

Act means the applicable provisions of the Egg Products Inspection Act (Pub. L. 91–597, 84 Stat. 1620 *et seq.*).

Administrator means the Administrator of the Agricultural Marketing Service of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated the authority to act in his stead.

Adulterated means any egg or egg product under one or more of the following circumstances:

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(b)(1) If it bears or contains any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may in the judgment of the Secretary, make such article unfit for human food;

(2) If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;

(3) If it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;

(4) If it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act: Provided, that an article which is not otherwise deemed adulterated under paragraph (b)(2), (3), or (4) of this definition shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive, in or on such article, is prohibited by regulations of the Secretary in official plants;

(c) If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human food;

(d) If it has been prepared, packaged, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(e) If it is an egg which has been subjected to incubation or the product of any egg which has been subjected to incubation;

(f) If its container is composed, in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health;

(g) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act; or

(h) If any valuable constituent has been, in whole or in part, omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

Ambient temperature means the air temperature maintained in an egg storage facility or transport vehicle.

Applicant means any person who requests any inspection service as au-

thorized under the Act or the regulations of this part.

Capable of use as human food means any egg or egg product, unless it is denatured, or otherwise identified, as required by these regulations to deter its use as human food.

Chief of the Grading Branch means Chief of the Poultry Grading Branch, Poultry Division, Agricultural Marketing Service.

Class means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind, type, or method of processing.

Commerce means interstate, foreign, or intrastate commerce.

Condition means any condition (including, but not being limited to, the state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food) of any product which affects its merchantability; or any condition, including but not being limited to, the processing, handling, or packaging which affects such product.

Container or *Package* includes for egg products, any box, can, tin, plastic, or other receptacle, wrapper, or cover and for shell eggs, any carton, basket, case, cart, pallet, or other receptacle.

(a) *Immediate container* means any package or other container in which egg products or shell eggs are packed for household or other ultimate consumers.

(b) *Shipping container* means any container used in packing an immediate container.

Department means the U.S. Department of Agriculture.

Dirty egg or *Dirties* means an egg(s) that has an unbroken shell with adhering dirt or foreign material.

Egg means the shell egg of the domesticated chicken, turkey, duck, goose, or guinea. Some of the terms applicable to shell eggs are as follows:

(a) *Check* means an egg that has a broken shell or crack in the shell but has its shell membranes intact and contents not leaking.

(b) *Clean and sound shell egg* means any egg whose shell is free of adhering dirt or foreign material and is not cracked or broken.

(c) *Dirty egg* or *Dirties* means an egg(s) that has a shell that is unbroken

and has adhering dirt, foreign material, or prominent stains.

(d) *Incubator reject* means an egg that has been subjected to incubation and has been removed from incubation during the hatching operations as infertile or otherwise unhatchable.

(e) *Inedible* means eggs of the following descriptions: Black rots, yellow rots, white rots, mixed rots, sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, and eggs containing embryo chicks (at or beyond the blood ring stage).

(f) *Leaker* means an egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell.

(g) *Loss* means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat spots, a large quantity of blood, or other foreign material.

(h) *Restricted egg* means any check, dirty egg, incubator reject, inedible, leaker, or loss.

Egg handler means any person, excluding the ultimate consumer, who engages in any business in commerce that involves buying or selling any eggs (as a poultry producer or otherwise), or processing any egg products, or otherwise using any eggs in the preparation of human food.

Egg product means any dried, frozen, or liquid eggs, with or without added ingredients, excepting products which contain eggs only in a relatively small proportion or historically have not been, in the judgment of the Secretary, considered by consumers as products of the egg food industry, and which may be exempted by the Secretary under such conditions as he may prescribe to assure that the egg ingredients are not adulterated and such products are not represented as egg products. For the purposes of this part, the following products, among others, are exempted as not being egg products: Freeze-dried products, imitation egg products, egg substitutes, dietary foods, dried no-bake custard mixes, egg nog mixes, acidic dressings, noodles, milk and egg

dip, cake mixes, French toast, and sandwiches containing eggs or egg products, provided, such products are prepared from inspected egg products or eggs containing no more restricted eggs than are allowed in the official standards for U.S. Consumer Grade B shell eggs. Balut and other similar ethnic delicacies are also exempted from inspection under this part.

Eggs of current production means shell eggs which have moved through the usual marketing channels since the time they were laid and are not in excess of 60 days old.

Fair Packaging and Labeling Act means the Act so entitled, approved November 3, 1966 (80 Stat. 1296), and Acts amendatory thereof or supplementary thereto.

Federal Food, Drug, and Cosmetic Act means the Act so entitled, approved June 25, 1938 (52 Stat. 1040), and Acts amendatory thereof or supplementary thereto.

Inspection means the application of such inspection methods and techniques as are deemed necessary by the responsible Secretary to carry out the provisions of the Egg Products Inspection Act and the regulations under this part.

Inspection service means the official service within the Department having the responsibility for carrying out the provisions of the Egg Products Inspection Act. Inspection service also means the activities performed, including official reporting by such official service.

Inspector/Grader means:

(a) Any employee or official of the United States Government authorized to inspect eggs or egg products under the authority of this part; or

(b) Any employee or official of the government of any State or local jurisdiction authorized by the Secretary to inspect eggs or egg products under the authority of this part, under an agreement entered into between the Secretary and the appropriate State or other agency.

Interested party means any person financially interested in a transaction involving any inspection or appeal inspection of any product, or the decision of an inspector.

Label means a display of any printed, graphic, or other method of identification upon the shipping container, if any, or upon the immediate container, including but not limited to, an individual consumer package of eggs and egg products, or accompanying such product.

Misbranded means any egg products which are not labeled and packaged in accordance with the requirements prescribed by regulations of the Administrator under this part.

National Supervisor means:

(a) The officer in charge of the inspection service; and

(b) Such other employee of the Service as may be designated by him.

Nest-run eggs means eggs which are packed as they come from the production facilities without having been washed, sized and/or candled for quality, with the exception that some checks, dirties, or other obvious undergrades may have been removed.

Official certificate means any certificate prescribed by regulations of the Administrator for issuance by an inspector or other person performing official functions under this part.

Official device means any device prescribed or authorized by the Secretary for use in applying any official mark.

Official identification means the official inspection mark or any other symbol prescribed by regulations of this part to identify the status of any article.

Official inspection mark means any symbol prescribed by the regulations of the Administrator showing that egg products were inspected in accordance with this part.

Official standards means the standards of quality, grades, and weight classes for eggs.

Office of inspection means the office of any inspector.

Pasteurize means the subjecting of each particle of egg products to heat or other treatments to destroy harmful viable microorganisms by such processes as may be prescribed by these regulations.

Person means any individual, partnership, corporation, association, or other business unit.

Pesticide chemical, Food additive, Color additive, and Raw agricultural commodity

shall have the same meaning for purposes of this part as under the Federal Food, Drug, and Cosmetic Act.

Plant means any place of business where egg products are processed:

(a) *Exempted plant* means any plant where the Administrator has determined the facilities and operating procedures meet such standards as may be prescribed by this part, and where the eggs received or used in the manufacture of egg products contain no more restricted eggs than are allowed by the official standards of U.S. Consumer Grade B for shell eggs, and where an exemption has been granted.

(b) *Official plant* means any plant in which the plant facilities, methods of operation and sanitary procedures have been found suitable and adequate by the Administrator for the continuous inspection of egg products in accordance with this part and in which inspection service is carried on.

Potable water means water that has been approved by a State health authority or other agency or laboratory acceptable to the Administrator as safe for drinking and suitable for food processing.

Processing means manufacturing of egg products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing or drying, or packaging egg products at official plants.

Producer-packer means any producer who sorts eggs only from his own production and packs them into their various qualities.

Quality means the inherent properties of any product which determine its relative degree of excellence.

Regional Director means any employee of the Department in charge of inspection service in a designated geographical region.

Regulations means the provisions in this part.

Regulatory inspector means any employee of the U.S. Government, or State or local jurisdiction, who is authorized by the Secretary to make such inspections as required in § 57.28 of these regulations.

Sampling means the act of taking samples of any product for inspection or analyses.

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Sanitize means the application of a bactericidal treatment which is approved as being effective in destroying microorganisms, including pathogens.

Secretary means the Secretary of Agriculture or his delegate.

Service means the Agricultural Marketing Service (AMS) of the Department.

Shell egg packer (grading station) means any person engaged in the sorting of eggs from sources other than or in addition to his own production into their various qualities, either mechanically or by other means.

Stabilization means the subjection of any egg product to a desugaring process.

State means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and the District of Columbia.

Ultimate consumer means any household consumer, restaurant, institution, or any other party who has purchased or received shell eggs or egg products for consumption.

United States means the States.

Washed ungraded eggs means eggs which have been washed but not sized or segregated for quality.

White or albumen means, for the purpose of this part, the product obtained from the egg as broken from the shell and separated from the yolk.

[63 FR 69968, 69970, Dec. 17, 1998]

ADMINISTRATION

§ 57.10 Authority.

The Administrator shall perform, for and under the supervision of the Secretary, such duties as the Secretary may require in the enforcement or administration of the provisions of the Act, and this part. The Administrator may waive for a limited period any particular provisions of the regulations to permit experimentation so that new procedures, equipment, and processing techniques may be tested to facilitate definite improvements and at the same time to maintain full compliance with the spirit and intent of the regulations. The Agricultural Marketing Service and its officers and employees shall not be liable in damages through acts of commission or omission in the administration of this part.

§ 57.13 Federal and State cooperation.

The Secretary shall, whenever he determines that it would effectuate the purposes of the Act, authorize the Administrator to cooperate with appropriate State and other governmental agencies in carrying out any provisions of the Egg Products Inspection Act and these regulations. In carrying out the provisions of the Act and the regulations, the Secretary may conduct such examinations, investigations, and inspections as he determines practicable through any officer or employee of any such agency commissioned by him for such purpose. The Secretary shall reimburse the States and other agencies for the services rendered by them in such cooperative programs as agreed to in the cooperative agreements as signed by the Administrator and the duly authorized agent of the State or other agency.

§ 57.17 Nondiscrimination.

The conduct of all services and the licensing of graders and inspectors under these regulations shall be accomplished without discrimination as to race, color, religion, sex, national origin, age, or disability.

§ 57.18 OMB control number.

The information collection requirements in this part have been approved by the Office of Management and Budget and assigned OMB control number 0581-0113.

[63 FR 69970, Dec. 17, 1998]

SCOPE OF INSPECTION

§ 57.20 Inspection in accordance with methods prescribed or approved.

Inspection of eggs shall be rendered pursuant to these regulations and under such conditions and in accordance with such methods as may be prescribed or approved by the Administrator.

[63 FR 69968, 69970, Dec. 17, 1998]

§ 57.22 Basis of service.

These regulations provide for inspection services pursuant to the Egg Products Inspection Act. Eggs and egg products shall be inspected in accordance

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with such standards, methods, and instructions as may be issued or approved by the Administrator. Inspection services shall be subject to supervision at all times by the applicable Federal-State supervisor, egg products supervisor, Regional Director, and National Supervisor.

§ 57.28 Other inspections.

(a) Periodic inspections shall be made of:

(1) Business premises, facilities, inventories, operations, transport vehicles, and records of egg handlers, and the records of all persons engaged in the business of transporting, shipping, or receiving any eggs or egg products. In the case of shell egg packers packing eggs for the ultimate consumer, such inspections shall be made a minimum of once each calendar quarter. Hatcheries are to be inspected a minimum of once each fiscal year.

(2) [Reserved]

(b) Inspections shall be made of imported eggs as required in this part.

[63 FR 69968, 69970, Dec. 17, 1998]

RELATION TO OTHER AUTHORITIES

§ 57.35 Eggs outside official plants.

(a) For eggs which have moved or are moving in interstate or foreign commerce, no State or local jurisdiction (1) may require the use of standards of quality, condition, grade, or weight classes which are in addition to or different than the official standards or (2) other than those in noncontiguous areas of the United States may require labeling to show the State or other geographical area of production or origin. This shall not preclude a State from requiring the name, address, and license number of the person processing or packaging eggs to be shown on each container.

(b) Any State or local jurisdiction may exercise jurisdiction with respect to eggs and egg products for the purpose of preventing the distribution for human food purposes of any such articles which are outside of the official plant and are in violation of this part or any of said Federal Acts or any State or local law consistent therewith.

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EGGS AND EGG PRODUCTS NOT INTENDED FOR HUMAN FOOD

§ 57.45 Prohibition on eggs and egg products not intended for use as human food.

(a) No person shall buy, sell, or transport or offer to buy or sell, or offer or receive for transportation in commerce, any eggs or egg products which are not intended for use as human food, unless they are denatured or decharacterized, unless shipped under seal as authorized in §§ 57.504(c) and 57.720(a) and identified as required by the regulations in this part.

(b) No person shall import or export shell eggs classified as loss, inedible, or incubator rejects unless they are denatured or decharacterized and identified as required by the regulations in this part.

[63 FR 69968, 69970, Dec. 17, 1998]

REFRIGERATION OF SHELL EGGS

§ 57.50 Temperature and labeling requirements.

(a) No shell egg handler shall possess any shell eggs that are packed into containers destined for the ultimate consumer unless they are stored and transported under refrigeration at an ambient temperature of no greater than 45°F (7.2°C).

(b) No shell egg handler shall possess any shell eggs that are packed into containers destined for the ultimate consumer unless they are labeled to indicate that refrigeration is required.

(c) Any producer-packer with an annual egg production from a flock of 3,000 or fewer hens is exempt from the temperature and labeling requirements of this section.

EXEMPTIONS

§ 57.100 Specific exemptions.

The following are exempt to the extent prescribed as to the provisions for control of restricted eggs in section 8(a)(1) and (2) of the Act: *Provided*, That as to paragraphs (c) through (f) of this section, the exemptions do not apply to restricted eggs when prohibited by State or local law; *And provided further*, That the sale of “hard-cooked shell eggs” or “peeled hard-cooked shell

eggs'' prepared from checks is subject to the conditions for exemption in paragraphs (c), (d), and (f) of this section: *And provided further*, That the conditions for exemption and provisions of these regulations are met:

(a) The sale, transportation, possession, or use of eggs which contain no more restricted eggs than are allowed by the tolerances in the official standards for U.S. Consumer Grade B shell eggs;

(b) [Reserved]

(c) The sale at the site of production, on a door-to-door retail route, or at an established place of business away from the site of production, by a poultry producer of eggs from his own flock's production directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs: *Provided*, That each such sale of restricted eggs shall be limited to no more than 30 dozen eggs; *And provided further*, (1) That eggs sold directly to consumers at an established place of business away from the site of production be moved directly from the producer to such place of business; (2) that such business away from the site of production be owned and managed by the producer; and (3) that such eggs which are sold on a door-to-door route or at an established place of business away from the site of production shall contain no more loss and/or leakers than allowed in the official standards for U.S. Consumer Grade B shell eggs.

(d) The sale of eggs by any producer with an annual egg production from a flock of 3,000 hens or less and the record requirements of § 57.200;

(e) The processing and sale of egg products by any poultry producer from eggs of his own flock's production when sold directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees;

(f) The sale of eggs by shell egg packers on the premises where the grading station is located, directly to household consumers for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession,

and use of such eggs. Each such sale of "restricted eggs": Shall be limited to no more than 30 dozen eggs;

(g) The processing in nonofficial plants, including but not limited to bakeries, restaurants, and other food processors, without continuous inspection, of certain categories of food products which contain eggs or egg products as an ingredient, and the sale and possession of such products: *Provided*, That such products are manufactured from inspected egg products processed in accordance with this part or from eggs containing no more restricted eggs than are allowed in the official standards for U.S. Consumer Grade B shell eggs;

(h) The purchase, sale, possession, or transportation of shell eggs containing more restricted eggs than allowed in the tolerances for U.S. Consumer Grade B shell eggs: *Provided*, That such eggs are handled in accordance with §§ 57.200 and 57.700 through 57.860 to assure that only eggs fit for human food are used for such purpose. This exemption applies to the following:

(1) Egg producers, assemblers, wholesalers, and grading operations;

(2) Hatcheries;

(3) Transporters;

(4) Laboratories, pharmaceutical companies; and

(5) Processors of products not intended for use as human food.

[63 FR 69968, 69971, Dec. 17, 1998]

§ 57.105 Suspension or termination of exemptions.

(a) The Administrator may immediately suspend or terminate any exemption under § 57.100(b) at any time with respect to any person, if the conditions of exemption prescribed by this section are not being met. The Administrator may modify or revoke any regulation of this part, granting exemptions whenever he determines such action appropriate to effectuate the purposes of the Act.

(b) Failure to comply with the condition of the exemptions contained in § 57.100 shall subject such person to the penalties provided for in the Act and in this part.

PERFORMANCE OF SERVICE

§ 57.110 Licensed inspectors.

(a) Any person who is a Federal or State employee, or the employee of a local jurisdiction possessing proper qualifications as determined by an examination for competency and who is to perform services pursuant to this part, may be licensed by the Secretary as an inspector.

(b) Licenses issued by the Secretary are to be countersigned by the Administrator or by any other designated official of the Service.

(c) No person may be licensed to inspect any product in which he is financially interested.

§ 57.112 Suspension of license or authority; revocation.

Pending final action by the Secretary, any person authorized to countersign a license to perform inspection services may, whenever he deems such action necessary to assure that any inspection service is properly performed, suspend any license to perform inspection services issued pursuant to this part by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within 7 days after the receipt of the aforesaid notice and statement of reasons by the licensee, he may file an appeal in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be suspended or revoked. After the expiration of the aforesaid 7-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 7 days, the license is revoked or suspended.

§ 57.114 Surrender of license.

Upon termination of his services as an inspector or whenever his license has been suspended or revoked, the licensee shall surrender his license and other items of identification furnished by the Department immediately to the inspection service.

§ 57.116 Activities of inspectors.

Inspectors at official plants shall confine their activities to those duties necessary in the rendering of inspection service and such closely related activities as may be approved by the Administrator.

§ 57.118 Identification.

Inspectors shall have in their possession at all times while on duty, and present upon request, the means of identification furnished by the Department to such persons.

§ 57.119 Political activity.

Inspectors are forbidden during the period of their respective appointments, or licenses, to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, except as authorized by law or regulation of the Department, is prohibited. This applies to all appointees, including but not being limited to temporary and cooperative employees and employees on leave of absence with or without pay. Willful violation of this section or § 57.120 will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

§ 57.120 Financial interest of inspectors.

No inspector shall inspect any product in which he is financially interested.

§ 57.132 Access to plants.

Access shall not be refused to any representative of the Secretary to any plant, place of business, or transport vehicle subject to inspection under the provisions of this part upon presentation of proper credentials.

§ 57.134 Accessibility of product.

(a) Each product for which inspection service is required shall be so placed as to disclose fully its class, quality, quantity, and condition as the circumstances may warrant.

(b) The perimeter of each cooler room used to store shell eggs packed in

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containers destined for the ultimate consumer shall be made accessible in order for the Secretary's representatives to determine the ambient temperature under which shell eggs are stored.

RECORDS AND RELATED REQUIREMENTS FOR EGG HANDLERS AND RELATED INDUSTRIES

§ 57.200 Records and related requirements.

(a) Persons engaged in the business of transporting, shipping, or receiving any eggs in commerce, or holding such articles so received, and all egg handlers, including hatcheries, shall maintain records showing, for a period of 2 years, to the extent that they are concerned therewith, the receipt, delivery, sale, movement, and disposition of all eggs handled by them, and shall, upon the request of an authorized representative of the Secretary, permit him, at reasonable times, to have access to and to copy all such records.

(b) Production records by categories of eggs such as graded eggs, nest-run eggs, dirties, checks, leakers, loss, inedible, etc., bills of sale, inventories, receipts, shipments, shippers, receivers, dates of shipment and receipt, carrier names, etc., as determined by the Administrator, shall be maintained by all shell egg handlers, except that, producers who ship all of their production as nest-run eggs without segregation need only to maintain records indicating the amount of shell eggs shipped, date of shipment, and the receivers' name and address, need only to maintain records indicating the amount of eggs received, date received, and the name and address of the shipper.

[63 FR 69968, 69971, Dec. 17, 1998]

§ 57.220 Information and assistance to be furnished to inspectors.

When inspection service is performed at any plant, the plant operator shall furnish the inspector such information and assistance as may be required for the performance of inspection functions, preparing certificates, reports, and for other official duties.

ADMINISTRATIVE DETENTION

§ 57.240 Detaining product.

Whenever any eggs subject to the Act are found by any authorized representative of the Secretary upon any premises, and there is reason to believe that they are or have been processed, bought, sold, possessed, used, transported, or offered or received for sale or transportation in violation of the Act or the regulations in this part, or that they are in any other way in violation of the Act, or whenever any restricted eggs capable of use as human food are found by such a representative in the possession of any person not authorized to acquire such eggs under the regulations in this part, such articles may be detained by such representative for a period not to exceed 20 days, as more fully provided in section 19 of the Act. A detention tag or other similar device shall be used to identify detained product, and the custodian or owner shall be given a written notice of such detention. Only authorized representatives of the Secretary shall affix or remove detention identification. The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of the Act, the regulations in this part, or other laws.

[63 FR 69968, 69971, Dec. 17, 1998]

APPEAL OF AN INSPECTION OR DECISION

§ 57.300 Who may request an appeal inspection or review of an inspector's decision.

Any appeal inspection may be requested by any interested party who is dissatisfied with the determination by an inspector of the class, quantity, or condition of any product, and a review may be requested by the operator of an official plant with respect to an inspector's decision or on any other matter related to inspection in the official plant.

§ 57.310 Where to file an appeal.

Any interested party who is not satisfied with the determination of the class, quantity, or condition of product which was inspected other than in an

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official plant may request an appeal inspection by filing such request with the Regional Director in the region where the product is located or with the Chief of the Grading Branch.

[63 FR 69971, Dec. 17, 1998]

§ 57.320 How to file an appeal.

The request for an appeal inspection or review of an inspector's decision may be made orally or in writing. If made orally, written confirmation may be required. The applicant shall clearly state the identity of the product, the decision which is questioned, and the reason(s) for requesting the appeal service. If such appeal request is based on the results stated on an official certificate, the original and all copies of the certificate available at the appeal inspection site shall be provided to the inspector assigned to make the appeal inspection.

§ 57.330 When an application for an appeal grading or inspection may be refused.

When it appears to the official with whom an appeal request is filed that the reasons given in the request are frivolous or not substantial, or that the condition of the product has undergone a material change since the original grading or inspection, or that the original lot has changed in some manner, or the Act or the regulations in this part have not been complied with, the applicant's request for the appeal inspection may be refused. In such case, the applicant shall be promptly notified of the reason(s) for such refusal.

§ 57.340 Who shall perform the appeal.

The assignment of the inspector(s) who will make the appeal inspection under § 57.310 shall be made by the Regional Director or the Chief of the Grading Branch, Poultry Division, Agricultural Marketing Service.

[63 FR 69968, 69971, Dec. 17, 1998]

§ 57.350 Procedures for selecting appeal samples.

(a) *Prohibition on movement of product.* Products shall not have been moved from the place where the inspection being appealed was performed and must

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have been maintained under adequate refrigeration when applicable.

(b) *Laboratory analyses.* The appeal sample shall consist of product taken from the original sample containers plus an equal number of containers selected at random. When the original sample containers cannot be located, the appeal sample shall consist of product taken at random from double the number of original sample containers.

(c) *Condition inspection.* The appeal sample shall consist of product taken from the original sample containers plus an equal number of containers selected at random. A condition appeal cannot be made unless all originally sampled containers are available.

§ 57.360 Appeal inspection certificates.

Immediately after an appeal inspection is completed, an appeal certificate shall be issued to show that the original inspection was sustained or was not sustained. Such certificate shall supersede any previously issued certificate for the product involved and shall clearly identify the number and date of the superseded certificate. The issuance of the appeal certificate may be withheld until any previously issued certificate and all copies have been returned when such action is deemed necessary to protect the interest of the Government. When the appeal inspector assigns a different class to the lot or determines that a net weight shortage exists, the lot shall be retained pending correction of the labeling or approval of the product disposition by the National Supervisor.

§ 57.370 Cost of appeals.

(a) There shall be no cost to the appellant when the appeal inspection discloses a material error was made in the original determination.

(b) The costs of an appeal shall be borne by the appellant at an hourly rate of \$27.36, including travel time and expenses if the appeal was frivolous, including but not being limited to the following: The appeal inspection discloses that no material error was made in the original inspection, the condition of the product has undergone a material change since the original inspection, the original lot has changed in some manner, or the Act or these

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regulations have not been complied with.

IDENTIFYING AND MARKING PRODUCT

§ 57.410 Shell eggs required to be labeled.

All shell eggs packed into containers destined for the ultimate consumer shall be labeled to indicate that refrigeration is required, e.g., "Keep Refrigerated," or words of similar meaning.

[63 FR 69968, 69971, Dec. 17, 1998]

RETENTION

§ 57.426 Retention.

Retention tags or other devices and methods as may be approved by the Administrator shall be used for the identification and control of products which are not in compliance with the regulations or are held for further examination, and any equipment, utensils, rooms or compartments which are found to be unclean or otherwise in violation of the regulations. No product, equipment, utensil, room, or compartment shall be released for use until it has been made acceptable. Such identification shall not be removed by anyone other than an inspector.

PROCESSING REQUIREMENTS

§ 57.504 General operating procedures.

(a)-(b) [Reserved]

(c) All loss and inedible eggs or egg products shall be placed in a container clearly labeled "inedible" and containing a sufficient amount of approved denaturant or decharacterant, such as FD&C brown, blue, black, or green colors, meat and fish by-products, grain and milling by-products, or any other substance, as approved by the Administrator, that will accomplish the purposes of this section. Shell eggs shall be crushed and the substance shall be dispersed through the product in amounts sufficient to give the product a distinctive appearance or odor.

[63 FR 69971, Dec. 17, 1998]

REGISTRATION OF SHELL EGG HANDLERS

§ 57.690 Persons required to register.

Shell egg handlers, except for producer-packers with an annual egg pro-

duction from a flock of 3,000 hens or less, who grade and pack eggs for the ultimate consumer, and hatcheries are required to register with the U.S. Department of Agriculture by furnishing their name, place of business, and such other information as is requested on forms provided by or available from the U.S. Department of Agriculture. Completed forms shall be sent to the addressee indicated on the form. Persons as those listed above who are establishing a business will be required to register before they start operations.

[40 FR 20059, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 63 FR 45675, Aug. 27, 1998. Redesignated at 63 FR 69970, Dec. 17, 1998]

INSPECTION AND DISPOSITION OF RESTRICTED EGGS

§ 57.700 Prohibition on disposition of restricted eggs.

(a) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation in any business in commerce any restricted eggs, except as authorized in §§ 57.100 and 57.720.

(b) No egg handler shall possess any restricted eggs, except as authorized in §§ 57.100 and 57.720.

(c) No egg handler shall use any restricted eggs in the preparation of human food, except as provided in §§ 57.100 and 57.720.

[36 FR 9814, May 28, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, and at 63 FR 69970, Dec. 17, 1998]

§ 57.720 Disposition of restricted eggs.

(a) Eggs classified as checks, dirties, incubator rejects, inedibles, leakers, or loss shall be disposed of by one of the following methods at point and time of segregation:

(1) Checks and dirties shall be labeled in accordance with § 57.800 and shipped directly or indirectly to an official egg products plant for segregation and processing. Inedible and loss eggs shall not be intermingled in the same container with checks and dirties.

(2) By destruction in a manner approved by the Administrator, such as

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crushing and denaturing or decharacterizing in accordance with § 57.504(c) and identifying the product as “Inedible Egg Product—Not To Be Used As Human Food.”

(3) Processing for industrial use or for animal food. Such product shall be denatured or decharacterized in accordance with § 57.504(c) and identified as provided in §§ 57.840 and 57.860, or handled in accordance with other procedures approved by the Administrator. Notwithstanding the foregoing, product which was produced under official supervision and transported for industrial use or animal food need not be denatured or decharacterized if it is shipped under Government seal and received by an inspector or grader as defined in this part.

(4) By coloring the shells of loss and inedible eggs with a sufficient amount of FD&C color to give a distinct appearance, or applying a substance that will penetrate the shell and decharacterize the egg meat. Except that, lots of eggs containing significant percentages of blood spots or meat spots, but no other types of loss or inedible eggs may be shipped directly to official egg products plants, provided they are conspicuously labeled with the name and address of the shipper and the wording “Spots—For Processing Only In Official Egg Products Plants.”

(5) Incubator rejects shall be broken or crushed and denatured or decharacterized in accordance with § 57.504(c) and labeled as required in §§ 57.840 and 57.860.

(b) Eggs which are packed for the ultimate consumer and which have been found to exceed the tolerance for restricted eggs permitted in the official standards for U.S. Consumer Grade B shall be identified as required in §§ 57.800 and 57.860 and shall be shipped directly or indirectly:

(1) To an official egg products plant for proper segregation and processing; or

(2) Be regraded so that they comply with the official standards; or

(3) Used as other than human food.

(c) Records shall be maintained as provided in § 57.200 to assure proper disposition.

[36 FR 9814, May 28, 1971; 36 FR 10841, June 4, 1971; 37 FR 6659, Apr. 1, 1972; 40 FR 20059, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 47 FR 745, Jan. 7, 1982; 60 FR 49170, Sept. 21, 1995. Redesignated at 63 FR 69970, Dec. 17, 1998]

§ 57.760 Inspection of egg handlers.

Duly authorized representatives of the Secretary shall make such periodic inspections of egg handlers, their transport vehicles, and their records as the Secretary may require to ascertain if any of the provisions of the Act or this part applicable to such egg handlers have been violated. Such representatives shall be afforded access to any place of business, plant, or transport vehicle subject to inspection under the provisions of the Act.

[63 FR 45675, Aug. 27, 1998. Redesignated at 63 FR 69970, Dec. 17, 1998]

IDENTIFICATION OF RESTRICTED EGGS OR EGG PRODUCTS NOT INTENDED FOR HUMAN CONSUMPTION

§ 57.800 Identification of restricted eggs.

The shipping container of restricted eggs shall be determined to be satisfactorily identified if such container bears the packer's name and address, the quality of the eggs in the container (e.g., dirties, checks, inedibles, or loss), or the statement “Restricted Eggs—For Processing Only In An Official USDA Egg Products Plant,” for checks or dirties, or “Restricted Eggs—Not To Be Used As Human Food,” for inedibles, loss, and incubator rejects, or “Restricted Eggs—To Be Regraded” for graded eggs which contain more restricted eggs than are allowed in the official standards for U.S. Consumer Grade B shell eggs. The size of the letters of the identification wording shall be as required in § 57.860. When eggs are packed in immediate containers, e.g., cartons, sleeve packs, overwrapped 2½- or 3-dozen packs, etc., for sale to household consumers under the exemptions provided for in section 57.100 (c),

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or (f), they shall be deemed to be satisfactorily identified in accordance with the requirements of this part if such immediate containers bear the packer's name and address and the quality of the eggs. Alternatively, a point of sale sign may be displayed showing the above information.

§ 57.801 Nest run or washed ungraded eggs.

Nest run or washed ungraded eggs are exempt from the labeling provisions in § 57.800. However, when such eggs are packed and sold to consumers, they may not exceed the tolerance for restricted eggs permitted in the official standards for U.S. Consumer Grade B shell eggs.

[60 FR 49171, Sept. 21, 1995. Redesignated at 63 FR 69970, Dec. 17, 1998]

§ 57.840 Identification of inedible, unwholesome, or adulterated egg products.

All inedible, unwholesome, or adulterated egg products shall be identified with the name and address of the processor, the words "Inedible Egg Products—Not To Be Used as Human Food."

§ 57.860 Identification wording.

The letters of the identification wording shall be legible and conspicuous.

IMPORTS

§ 57.900 Requirements for importation of restricted eggs into the United States.

(a) Restricted eggs may be imported into the United States from any foreign country only in accordance with these regulations. The term *United States* means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and the District of Columbia. The importation of any egg in violation of the regulations of this part is prohibited.

(b) All such imported articles shall upon entry into the United States be deemed and treated as domestic articles and be subject to the other provisions of the Act, these regulations, and other Federal or State requirements.

[63 FR 69968, 69971, Dec. 17, 1998]

§ 57.905 Importation of restricted eggs or eggs containing more restricted eggs than permitted in the official standards for U.S. Consumer Grade B.

(a) No containers of restricted egg(s) other than checks or dirties shall be imported into the United States. The shipping containers of such eggs shall be identified with the name, address, and country of origin of the exporter, and the date of pack and quality of the eggs (e.g., checks, or dirties) preceded by the word "Imported" or the statement "Imported Restricted Eggs—For Processing Only In An Official USDA Plant," or "Restricted Eggs—Not To Be Used As Human Food." Such identification shall be legible and conspicuous. Alternatively, for properly sealed and certified shipments of shell eggs imported for breaking at an official egg products plant, the shipping containers need not be labeled, provided that the shipment is segregated and controlled upon arrival at the destination breaking plant.

(b) Eggs which are imported for use as human food and upon entry are found to contain more restricted eggs than permitted in the official standards for U.S. Consumer Grade B, shall be refused entry and returned to the importing country or be conspicuously and legibly identified as "Imported Restricted Eggs" and be sent directly under official seal: (1) To a place where they may be regraded to comply with the official U.S. standards for consumer grades; (2) to an official USDA egg products processing plant; or (3) to be used as other than human food.

§ 57.915 Foreign inspection certification required.

(a) [Reserved]

(b) Except as otherwise provided in § 57.960, each consignment of shell eggs shall be accompanied by a foreign inspection certificate, which, unless otherwise approved by the Administrator contains the following information:

- (1) Country exporting product;
- (2) City and date where issued;
- (3) Quality or description of eggs;
- (4) Number of cases and total quantity;
- (5) Identification marks on containers;

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- (6) Name and address of exporter;
- (7) Name and address of importer;
- (8) A certification that the quality or description of the shell eggs, including date of pack, is true and accurate;
- (9) A certification that shell eggs which have been packed into containers destined for the ultimate consumer have, at all times after packing, been stored and transported under refrigeration at an ambient temperature of no greater than 45 °F (7.2 °C); and
- (10) Name (including signature) and title of person authorized to issue inspection certificates for shell eggs exported to the United States.

[63 FR 69968, 69971, Dec. 17, 1998]

§ 57.920 Importer to make application for inspection of imported eggs.

Each person importing any eggs shall make application for inspection upon PY Form 222-Import Request, to the Chief, Poultry Grading Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, or to the Poultry Division, Poultry Grading Branch office at the port where the product is to be offered for importation. Application shall be made as long as possible prior to the arrival of each consignment of product, except in the case of product exempted from inspection by § 57.960. Each application shall state the approximate date of product arrival in the United States, the name of the ship or other carrier, the country from which the product was shipped, the destination, the quantity and class of product, whether fresh, frozen, or dried, and the point of first arrival in the United States.

[63 FR 69968, 69971, Dec. 17, 1998]

§ 57.925 Inspection of imported eggs.

(a) Except as provided in § 57.960, eggs offered for importation from any foreign country shall be subject to inspection in accordance with established inspection procedures, including the examination of the labeling information on the containers, by an inspector before the product shall be admitted into the United States. Importers will be advised of the point where inspection will be made, and in case of small shipments (less than carload lots), the im-

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porter may be required to move the product to the location of the nearest inspector.

(b) Inspectors may take samples, without cost to the United States, of any product offered for importation which is subject to analysis or quality determination, except that samples shall not be taken of any products offered for importation under § 57.960, unless there is reason for suspecting the presence therein of a substance in violation of that section.

[63 FR 69968, 69971, Dec. 17, 1998]

§ 57.930 Imported eggs; retention in customs custody; delivery under bond; movement prior to inspection; sealing; handling; facilities, and assistance.

(a) No eggs required by this part to be inspected shall be released from customs custody prior to required inspections, but such product may be delivered to the consignee, or his agent, prior to inspection if the consignee shall furnish a bond, in the form prescribed by the Secretary of the Treasury, conditioned that the product shall be returned, if demanded, to the collector of the port where the same is offered for clearance through customs.

(b) Notwithstanding paragraph (a) of this section, no product required by this part to be inspected shall be moved prior to inspection from the port of arrival where first unloaded, and if arriving by water from the wharf where first unloaded at such port, to any place other than the place designated in accordance with this part as the place where the same shall be inspected; and no product shall be conveyed in any manner other than in compliance with this part.

(c) Means of conveyance or packages in which any product is moved in accordance with this part, prior to inspection, from the port or wharf where first unloaded in the United States, shall be sealed with special import seals of the U.S. Department of Agriculture or otherwise identified as provided herein, unless already sealed with customs or consular seals in accordance with the customs regulations. Such special seals shall be affixed by an inspector or, if there is no inspector at such port, by a customs officer. In

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lieu of sealing packages, the carrier or importer may furnish and attach to each package of product a warning notice on bright yellow paper, not less than 5 x 8 inches in size, containing the following legend in black type of a conspicuous size:

(Name of Truck Line or Carrier)

NOTICE

This package of _____ must be delivered intact to an inspector of the Poultry Division, U.S. Department of Agriculture.

WARNING

Failure to comply with these instructions will result in penalty action being taken against the holder of the customs entry bond.

If the product is found to be acceptable upon inspection, the product may be released to the consignee, or his agent, and this warning notice defaced.

(d) No person shall affix, break, alter, deface, mutilate, remove, or destroy any special import seal of the U.S. Department of Agriculture, except customs officers or inspectors, or as provided in paragraph (f) of this section.

(e) No product shall be removed from any means of conveyance or package sealed with a special import seal of the U.S. Department of Agriculture, except under the supervision of an inspector or a customs officer, or as provided in paragraph (f) of this section.

(f) In case of a wreck or similar extraordinary emergency, the special import seal of the U.S. Department of Agriculture on a car, truck, or other means of conveyance may be broken by the carrier and, if necessary, the articles may be reloaded into another means of conveyance for transportation to destination. In all such cases, the carrier shall immediately report the facts by telegraph to the Chief of the Grading Branch.

(g) The consignee or his agent shall provide such facilities and assistance as the inspector may require for the inspection and handling and marking of products offered for importation.

[63 FR 69968, 69971, Dec. 17, 1998]

§ 57.935 Means of conveyance and equipment used in handling eggs to be maintained in sanitary condition.

Compartments of boats, railroad cars, and other means of conveyance transporting any product to the United States, and all chutes, platforms, racks, tables, tools, utensils, and all other devices used in moving and handling such product offered for importation, shall be maintained in a sanitary condition.

§ 57.945 Foreign eggs offered for importation; reporting of findings to customs; handling of products refused entry.

(a) Inspectors shall report their findings to the collector of customs at the port where products are offered for entry, and shall request the collector to refuse entry to eggs which are marked or designated "U.S. Refused Entry" or otherwise are not in compliance with the regulations in this part. Unless such products are exported by the consignee within a time specified by the collector of customs (usually 30 days), the consignee shall cause the destruction of such products for human food purposes under the supervision of an inspector. If products are destroyed for human food purposes under the supervision of an inspector, he shall give prompt notice thereof to the District Director of Customs.

(b) Consignees shall, at their own expense, return immediately to the collector of customs, in means of conveyance or packages sealed by the U.S. Department of Agriculture, any eggs received by them under this part which in any respect do not comply with this part.

(c) Except as provided in § 57.930(a), no person shall remove or cause to be removed from any place designated as the place of inspection, any eggs which the regulations require to be marked in any way, unless the same has been clearly and legibly marked in compliance with this part.

[63 FR 69968, 69971, Dec. 17, 1998]

§ 57.950 Labeling of containers of eggs for importation.

(a) Immediate containers of product offered for importation shall bear a label, printed in English, showing:

- (1) The name of product;
- (2) The name of the country of origin of the product, and for consumer packaged products, preceded by the words "Product of," which statement shall appear immediately under the name of the product;
- (3) The quality or description of shell eggs, including date of pack;
- (4) For shell eggs, the words, "Keep Refrigerated," or words of similar meaning;
- (5) [Reserved]
- (6) The name and place of business of manufacturer, packer, or distributor, qualified by a phrase which reveals the connection that such person has with the product;
- (7) An accurate statement of the quantity;
- (b) For properly sealed and certified shipments of shell eggs imported for breaking at an official egg products plant, the immediate containers need not be labeled, provided that the shipment is segregated and controlled upon arrival at the destination breaking plant.
- (c) The labels shall not be false or misleading in any respect.

[63 FR 69968, 69971, Dec. 17, 1998]

§ 57.955 Labeling of shipping containers of eggs for importation.

(a) Shipping containers of foreign product which are shipped to the United States shall bear in a prominent and legible manner:

- (1) The common or usual name of the product;
- (2) The name of the country of origin;
- (3)-(4) [Reserved]
- (5) The quality or description of the eggs, except as required in § 57.905;
- (6) The words "Keep refrigerated" or words of similar meaning.
- (b) Labeling on shipping containers examined at the time of inspection in the United States, if found to be false or misleading, shall be cause for the product to be refused entry.
- (c) For properly sealed and certified shipments of shell eggs imported for breaking at an official egg products

plant, the shipping containers need not be labeled, provided that the shipment is segregated and controlled upon arrival at the destination breaking plant.

(d) In the case of products which are not in compliance solely because of misbranding, such products may be brought into compliance with the regulations only under the supervision of an authorized representative of the Administrator.

[63 FR 69968, 69971, Dec. 17, 1998]

§ 57.960 Small importations for consignee's personal use, display, or laboratory analysis.

Any eggs which are offered for importation, exclusively for the consignee's personal use, display, or laboratory analysis, and not for sale or distribution; which is sound, healthful, wholesome, and fit for human food; and which is not adulterated and does not contain any substance not permitted by the Act or regulations, may be admitted into the United States without a foreign inspection certificate. Such product is not required to be inspected upon arrival in the United States and may be shipped to the consignee without further restriction under this part: *Provided*, That the Department may, with respect to any specific importation, require that the consignee certify that such product is exclusively for the consignee's personal use, display, or laboratory analysis and not for sale or distribution. The amount of such product imported shall not exceed 30-dozen shell eggs, unless otherwise authorized by the Administrator.

[63 FR 69968, 69971, Dec. 17, 1998]

§ 57.965 Returned U.S. inspected and marked products; not importations.

Products which have been inspected by the United States Department of Agriculture and so marked, and which are returned from foreign countries are not importations within the meaning of this part. Such returned shipments shall be reported to the Administrator by letter.

§ 57.970 Charges for storage, cartage, and labor with respect to products imported contrary to the Act.

All charges for storage, cartage, and labor with respect to any product

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which is imported contrary to this part shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against such product and any other product thereafter imported under the Act by or for such owner or consignee.

Subpart B—Rules of Practice Governing Proceedings Under the Egg Products Inspection Act

SOURCE: 64 FR 40738, July 28, 1999, unless otherwise noted.

SCOPE AND APPLICABILITY OF RULES OF PRACTICE

§ 57.1000 Administrative proceedings.

(a) The Uniform Rules of Practice for the Department of Agriculture promulgated in subpart H of part 1, subtitle A, title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicating administrative proceedings under section 12(c) of the Egg Products Inspection Act (21 U.S.C. 1041).

(b) In addition to the proceedings set forth in paragraph (a) of this section, the Administrator, in his discretion, at any time prior to the issuance of a complaint seeking a civil penalty under the Act may enter into a stipulation with any person, in accordance with the following prescribed conditions:

(1) The Administrator gives notice of an apparent violation of the Act or the regulations issued thereunder by such person and affords such person an opportunity for a hearing regarding the matter as provided by the Act;

(2) Such person expressly waives hearing and agrees to a specified order including an agreement to pay a specified civil penalty within a designated time; and

(3) The Administrator agrees to accept the specified civil penalty in settlement of the particular matter involved if it is paid within the designated time.

(4) If the specified penalty is not paid within the time designated in such stipulation, the amount of the stipulated penalty shall not be relevant in any respect to the penalty that may be assessed after the institution of a for-

mal administrative proceeding pursuant to the Uniform Rules of Practice, Subpart H, Part 1, Title 7, Code of Federal Regulations.

PART 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS¹

Subpart A—Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products

DEFINITIONS

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58.1 Meaning of words.

58.2 Designation of official certificates, memoranda, marks, identifications, and devices for purpose of the Agricultural Marketing Act.

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58.4 Basis of service.

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58.7 Who may obtain service.

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58.10 Filing of application.

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58.20 Disposition of inspection or grading certificates or reports.

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APPEAL INSPECTION OR GRADING AND REINSTATEMENT OF REGRADING

58.22 When appeal inspection or grading may be requested.

58.23 How to obtain appeal inspection or grading.

58.24 Record of filing time.

58.25 When an application for appeal inspection or grading may be refused.

¹Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act.